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or a year? If the money value of the railroad has doubled, while that of theatre tickets has tripled, how shall we determine the importance in the general average to be given to each? The only solution of the difficulty is really not a solution. It is to weight the price change of each kind of goods in proportion neither to an existing stock nor to consumption during any period, but in proportion to the value of the *exchanges* of that kind of goods during a period,—as, for example, a year. This form of index number is a practical compromise between the two suggested standards of capital and income. It is, furthermore, the form of index number which grows logically out of the equation of monetary circulation.¹

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TAX REFORM IN WASHINGTON: THE EXEMPTION OF INTANGIBLES.

The Washington State Board of Tax Commissioners was organized in the summer of 1905 under the authority of a law passed at the legislative session of that year. As a permanent board, it was given comprehensive powers of investigation and supervision. It was especially directed to make a careful study of the revenue systems of other states and countries, so far as that could be done by correspondence and the examination of reports and statistics, and to report to the governor any changes in the revenue laws of the State that might seem desirable. The board quickly demonstrated the need of its services, and an effort in the legislative session of 1909 to secure its abolition was readily defeated.

Tho one of the youngest of American commonwealths,

¹ See Irving Fisher, Review of Walsh on The Measurement of General Exchange-Value, in Yale Review, xi iii (May, 1902).

Washington is firmly bound by its constitution to the general property tax. It is, accordingly, from this source that most of its revenue is derived, tho something is gained from "indirect" taxes, such as privilege and license taxes, and from the inheritance tax. The constitution stands squarely in the way of any comprehensive reform, requiring the taxation of practically all property in the State at a uniform rate. Provision is made for the deduction of debts from credits, and for the exemption of governmental property "and such other property as the legislature may by general laws provide." This last clause, however, seems to apply to the exemption of property used for public or quasi-public purposes, such as that of educational, charitable, and religious institutions, rather than to the exemption of special forms of property. The legislature is specifically given power to grant exemption of personal property, under certain circumstances, to the amount of \$300. In general, however, the constitutional provisions are rigid. All property must be taxed, and it must be taxed at a uniform rate.

In their first biennial report the Commissioners made a number of important recommendations. The partial acceptance of these in regard to the State depository laws, the taxation of express, private car, and insurance companies, and licenses, was followed by an increase in the revenue from these sources of \$315,628.83.¹ The acceptance of the recommendation that the assessment of railroads be placed in the hands of the Tax Commissioners, together with a physical valuation of most of the steam railroads by the State Railroad Commission, resulted in the raising of the assessment from \$44,109,495 in 1906 to \$84,619,342 in 1908.²

That the general property tax, as applied to moneys and credits, was ineffective and a source of gross injustice, was a point on which the Commissioners were well agreed. Concerning the remedy, there was such a difference of opinion as to lead to a separate statement from each of the

¹ State Board of Tax Commissioners Second Biennial Report, p 15.

Loc cit, p 19

Commissioners. Two of these, however, are so well in accord that they may be regarded as a majority report. These members held that moneys and credits, like all other property not used for public or quasi-public purposes, should be taxed; but that it should be taxed at a moderate rate. To so tax them was, of course, unconstitutional, and the majority of the board recommended that there be submitted to the people a constitutional amendment that would permit this reform and such others as might seem desirable. The third member of the board recommended the total exemption of such property from taxation.

As regards the injustice and ineffectiveness of the general property tax, little need be said. The experience of Washington is not essentially different from that of other states. In the main, intangible property has escaped, tho the tax has been paid by the very conscientious and by those who are not able to make use of the ordinary means of evasion. According to the assessment of 1906, the last in which a thorough-going attempt seems to have been made to list all property of this sort, the total amount listed was:¹—

Moneys and credits of banks, bankers, brokers, etc. . . .	\$4,857,482
Moneys on hand or on deposit	3,151,452
Notes, accounts, tax certificates, warrants, and other credits	3,016,960
Bonds, stocks, and shares	709,030
Total intangibles	<u>\$11,734,924</u>
 Total personal property	 82,151,507
Total property, real and personal	530,209,882

In the opinion of the Board of Tax Commissioners, at least half of the property owned in the State is personalty.

The legislature of 1907 practically accepted both the majority and the minority reports of the Commissioners. It passed a law the effect of which was to amend the definition of personal property by the insertion of the clause, "*Provided, That mortgages, notes, accounts, moneys, certificates of deposit, tax certificates, judgments, state, county,*

¹ State Board of Tax Commissioners. First Biennial Report, pp. 273 and 289.

municipal and school district bonds and warrants shall not be considered as property for the purpose of this chapter, and no deduction shall hereafter be allowed on account of an indebtedness owed.”¹ The corporate securities are not specifically mentioned in this law, it seems to be generally conceded that it applies to them as well as to all other forms of property commonly known as intangibles. At the same session it was voted that there be submitted to the people an amendment to the constitution giving the powers recommended by the majority of the State Board of Tax Commissioners.

The exemption of intangibles was promptly contested in the courts, a writ of mandamus being issued, directing the assessor of Lincoln County to list the property exempted by the act. While the contest was still before the courts, the assessment of 1908, the first under the new law, was made. The Board of Tax Commissioners advised the assessors of the various counties that all such property should be listed, but some of them refused to list it. On August 1 the Supreme Court of the State, by a majority of four to one, held that the statute was constitutional except so far as it applied to moneys.²

Aside from the purely technical complaint that the act was void by reason of a defect in its title, the ground on which the court was asked to annul it was that it was in violation of that clause in the constitution which requires the taxation of all property in the State except that specially exempted. The position taken by the court was that substantially all the property in the State can be taxed without the taxation of credits,—that to tax them is double taxation. “Double taxation,” it said, “should be avoided as far as possible, and in any event the constitution should not be so construed as to require it.” Moreover, the constitution makes it just as imperative that taxation on all property should be uniform and equal as it does that all property shall be taxed. It is a matter of common knowledge that

¹ Revenue Laws of the State of Washington, 1907, p. 5

² State ex rel. Wolfe v. Parmenter, 50 Wash. pp. 164-184

the attempt to tax credits is one of the most fruitful sources of inequality in taxation, and the legislature, doubtless, had this in mind when it passed the law. Money, however, "possesses such value by way of immediate purchasing or exchange powers as, in effect, robs it of a mere representative character and clothes it with the dignity of property having intrinsic value." The exemption, therefore, is constitutional, except as applied to money. Justice Fullerton, dissenting, held that credits are property; that to exempt them does not equalize taxation; and that the exemption would allow much property, such as the stock of a corporation that did no business in the State, to escape.

The ruling that money cannot be exempt under the constitution renders incomplete the assessments for 1908 of those counties in which moneys were not listed in that year. An attempt will be made to include, in the assessment of 1909, moneys on hand March 1, 1908, as well as those for the current year.

The question has been raised whether bank deposits are to be regarded as moneys or as credits. The Tax Commissioners have advised the assessors that they should be regarded as moneys and listed as such. The assessor of King County, which includes the city of Seattle, relying on an opinion furnished by the prosecuting attorney, has decided to refuse to list them, and presumably other assessors have adopted the same policy. So the matter may be expected to go before the courts.

With regard to bank stock an anomalous condition exists. The same legislature that passed the act exempting moneys and credits provided for the assessment of the stock of state and national banks. In practise, therefore, the exemption has not been applied to this kind of securities. This may suggest that corporate securities in general should not be exempt; but it seems clear enough that they are property of the same class as the things specifically mentioned. In any event, the view taken by the Tax Commissioners and by many, if not all, of the assessors is that they are exempt; and Justice Fullerton, in his

dissenting opinion, seems to take it as a matter of course that they are. In the opinion of some of the taxing officials the taxation of bank stock, at least as far as the national banks are concerned, is unconstitutional because of its discriminatory character; but as yet none of the banks have seen fit to contest it.

Whether or not the exemption of intangibles has had any effect on the rate of interest it is impossible to say. Only one assessment has been made since the law went into effect; and in many of the counties the law was for the purpose of that assessment disregarded. It is less than a year since its constitutionality was upheld. Since its passage the country has gone through a severe financial crisis. It has been stated that the school districts have been able to place their bonds recently at 4.5 per cent. interest, whereas the rate was previously 5.5 per cent. To this it is replied that the reason why the rate of interest for such securities has fallen is that the State itself has entered the market for them, investing nearly half a million dollars belonging to various special funds. The opinion of bankers and of others who are in a position to observe the prices of securities and the rates of interest is that, while no man can speak with confidence on the subject, there appears to be no change that can fairly be attributed to the law. The fact that intangibles have so commonly escaped in the past is held to be quite sufficient to explain the absence of any effect on the rate of interest or the value of securities.

While the law seems to have had little, if any, effect on the rate of interest, it appears to have reduced considerably, at least in Seattle, the practice of withdrawing bank deposits over the time of assessment. This practise has, in times past, been of such importance that the banks have been obliged to prepare themselves for it. As a matter of fact, however, the deposits largely escaped assessment even when they were left in the banks, for the assessors very well knew that to require the banks to disclose the accounts of their customers, if that were possible, would

mean that the whole banking system would annually be placed in a serious condition, and that business would be correspondingly disorganized.

It is said that the exemption of intangibles has resulted in the coming into the State of business men and of capital; and individual cases are cited to show that this is true. It is obviously impossible to obtain any general information on the subject. That the exemption has attracted some persons is possible and easily understood; but it is not so easy to see why it should lead non-residents to send capital into the State. So far as capital is tangible, it is no more exempt than formerly. So far as it is intangible it has previously been exempt, as the State does not tax property of this sort in the hands of non-residents. Yet one of the chief arguments for the exemption was that it would attract capital. The president of a prominent Seattle trust company, who takes the view that it has actually done so, explains it by saying that a man who is about to invest in another State inquires about the tax rate, assuming that his investment will be subject to taxation in that State.

As has already been stated, the exemption of intangibles was not desired by a majority of the State Board of Tax Commissioners. Accepting their recommendation that the constitution be amended so as to permit a thorough reform and going beyond the changes suggested by the Commissioners in their report, the legislature of 1907 voted to submit to the people an amendment which would, in effect, remove from the constitution most of the existing provisions in regard to taxation, and substitute the following:—

The power of taxation shall never be surrendered, suspended or contracted away. Taxes shall be uniform upon the same class of subjects, and shall be levied and collected for public purposes. The property of the United States and of the State, counties, school districts and other municipal corporations, and personal property to the amount of three hundred dollars for each head of a family, liable to assessment and taxation under the provisions of the laws of this State, of which the individual is the actual and *bona fide* owner, shall be exempt from taxation.

This proposed amendment was defeated at the polls in November, 1908, by a large majority. Had it been passed, the Tax Commissioners would have recommended the classification of property with a moderate tax on intangibles, and the separation of State and local revenue, giving to the State the revenue derived from railroads and other public service corporations doing business throughout the State.

The defeat of the amendment is attributed mainly to the opposition of the railroads and other corporations that have largely escaped taxation, of the money interests generally which benefited by the exemption of intangibles, of certain religious bodies that believed that their legal exemption would be overthrown, and to the failure of the friends of the amendment to make clear its meaning and purpose. As to the relative importance of the forces opposed to the amendment, it is difficult to say. The business interests seem to have been the most active in their opposition, and it is said that they did much to work up the opposition on religious grounds. Certain it is that the latter argument did not gain prominence, at least in Seattle, till late in the campaign. One of the arguments most commonly advanced was that it would be very dangerous to intrust to the legislature as much power as the amendment would give them. The Tax Commissioners recommended to the legislature of 1909 the submission of an amendment substantially the same as that which was defeated, save that it provided for the exemption of property used for educational, charitable, and religious purposes. The legislature, however, refused to submit this amendment.

For some years to come Washington is likely to remain bound to the general property tax, with the important modification that what are commonly known as intangibles, except actual money, are not property for the purpose of taxation. In the ordinary course of events no arrangements for the submission of a constitutional amendment will be made before the legislative session of 1911;

action upon it would not be taken by the people till November, 1912; if it were passed, legislation would probably be enacted under it at earliest in the session of 1913; but, unless March 1st were abolished as the time of assessment, such legislation would not go into effect till 1914. The policy of exemption is therefore likely to have a reasonably long trial. The exemption is, of course, dependent on a mere act of the legislature; but it seems improbable that it will be repealed. Such repeal might, however, occur if the banks were to contest successfully the tax that is now laid on their stock.

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